

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.M.P.(M) No.335 of 2006.

Date of decision: 1.6.2006.

State of H.P.

.....Petitioner

Versus

Punnu Ram and another

.....Respondent

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?

For the Petitioner: Mr.J.S.Guleria, Law Officer.

For Respondent:

Deepak Gupta, J (Oral)

This petition for leave to appeal is directed against the judgment of the Additional Chief Judicial Magistrate, Court No.1, Shimla in case No.26/2 of 2004 decided on 3.2.2006.

Complainant Parmanand filed a complaint Ext.PW-2/A to the police alleging that on 20th December, 2003 at about 9 a.m. he was sweeping the floor of his house. Accused Punnu Ram and Prem Kashyap who are father and son were standing on the slab of their building. Suddenly the complainant heard the sound of a water pipe breaking from the back of his house. When he went to investigate he found that the accused were breaking the water pipes which had been installed in the back of his house leading to the roof. When the complainant objected to this the accused trespassed into his house and assaulted him. The complainant further stated that this incident was witnessed by Beli Ram and Jia Lal who were residing just in front of his house and who saved him from the clutches of the accused.

While appearing in the witness box the complainant stated that he did not know the witnesses Jia Lal and Beli Ram prior to the incident. These witnesses are electricians who per chance were there. In fact in cross examination he admitted that he did not know these witnesses. The stand of the complainant is totally contradictory. On the one hand he has stated that the witnesses were living in front of his house and on the other hand he stated that he did not know them. These two witnesses who are working as electricians and were chance witnesses allegedly came to the rescue of the complainant. None of the family members came to his rescue though they were present in the house nor they were produced in evidence. There are many contradictions in the statement of Jia Lal and Beli Ram also.

The learned trial Court after proper appreciation of the evidence has rejected the prosecution case and acquitted the accused. No interference is called for. Leave to appeal rejected.

June 1, 2006.
PV

(Deepak Gupta)
Judge